

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
EASTERN DIVISION

DALE McDOWELL,)	
)	
Plaintiff,)	
)	
v.)	Civ. Act. No.: 3:20CV839-ECM
)	(wo)
RANDY MOORE, <i>et al.</i> ,)	
)	
Defendants.)	

ORDER

The Plaintiff, Dale McDowell (“McDowell”), filed an amended complaint on February 18, 2021. (Docs. 48). In the amended complaint, claims were asserted against Bernard Sheppard (“Sheppard”), Randy Moore (“Moore”), and Aris Murphy (“Murphy”) Lisa Burdette (“Burdette”), and Joyce Adams (“Adams”), and Angela Price, James Michael Price, and James Earl Price (collectively “the Prices”). Burdette, Adams, Sheppard, Moore, and Murphy all moved for dismissal of the amended complaint. The Prices answered the original complaint, but not the amended complaint.

This Court subsequently granted the motions to dismiss, but gave McDowell a deadline to replead his claims against Moore in his official capacity. No new amended complaint was filed. Because the Prices had not responded to the first amended complaint, on November 5, 2021, this Court entered an order for McDowell to show cause why the case ought not be dismissed for want of prosecution. On November 11, 2021, McDowell filed a motion for default judgment (doc. 75), as well as a response to the Court’s Order to

show cause (doc. 77). A motion for default judgment is not the appropriate first step under the Federal Rules of Civil Procedure. *See* FED. R. CIV. P. 55 (a). In his response to the Court's Order, McDowell states that he anticipates that his motion for entry of default will cause the Prices to file an answer, but states no objection to their filing an answer at that time. In fact, the Prices filed an answer to the amended complaint on the same day. (Doc. 76).

Accordingly, it is hereby ORDERED that the Motion for Default Judgment (doc. 75) is DENIED.

Done this 10th day of December, 2021.

/s/ Emily C. Marks
EMILY C. MARKS
CHIEF UNITED STATES DISTRICT JUDGE